

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

BIANCA FLETCHER)
PLAINTIFF,)
VS.) NO. 4:20-CV-521 LPR
NITV FEDERAL SERVICES, LLC;)
GENE SHOOK; AND)
JOHN DOES 1-2)
DEFENDANTS.)

ORAL DEPOSITION OF
AUNDREA CULCLAGER
OCTOBER 15, 2020

EXB

KELLY D. HILL
CERTIFIED COURT REPORTER
STATE OF ARKANSAS
(501) 416-9329

KELLY D. HILL
CERTIFIED COURT REPORTER
(501) 416-9329

1 ANSWERS AND DEPOSITION OF AUNDREA CULCLAGER,
2 a witness produced at the request of the
3 Defendants, was taken in the above-styled and
4 numbered cause on the 15th day of October 2020,
5 1:03 p.m., before Kelly Hill, a Certified Court
6 Reporter, taken at Arkansas Department of
7 Corrections, 6814 Princeton Pike, Pine Bluff,
8 Arkansas 71602, in accordance with the Federal
9 Rules of Civil Procedure.

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KELLY D. HILL
CERTIFIED COURT REPORTER
(501) 416-9329

1 APPEARANCES OF COUNSEL:

2 ON BEHALF OF PLAINTIFF:

3 MR. LUCIEN R. GILLHAM
4 SUTTER & GILLHAM, PLLC
5 P.O. BOX 2012
6 BENTON, ARKANSAS 72018

7 ON BEHALF OF DEFENDANTS:

8 MR. JAMES D. ROBERTSON
9 BARBER LAW FIRM
425 WEST CAPITOL AVENUE, SUITE 3400
LITTLE ROCK, ARKANSAS 72201

10 ALSO PRESENT: MR. THOMAS BURNS
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S T I P U L A T I O N S

The attorneys for all parties present
stipulate and agree as follows:

Objections:

Reserve all objections, except as to the form
of the questions and the nonresponsiveness of the
answers, until the time of trial, which
objections are waived if not made at the taking
of the deposition.

Signature:

Waived.

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P R O C E E D I N G S

AUNDREA CULCLAGER,

having been first duly cautioned and sworn to
testify the truth, the whole truth and nothing
but the truth, testified on her oath as follows:

EXAMINATION

BY MR. ROBERTSON:

Q. All right. Good afternoon, Warden Culclager.
Again, my name is Jim Robertson. I'm with the
Barber Law Firm out of Little Rock, and I
represent two individuals that have been sued by
Ms. Bianca Fletcher, one of your former
employees. My clients are a company called NITV
Federal Services, and then one of their
contractors, a fellow named Gene Shook. Do you
know anything about those two individuals?

A. No more than Gene Shook. I know he's the one
that, when there's a question about one of the
questions, that they called him, and he kind of
gives them directions, the one that's conducting
the CVSA.

Q. Do you know anything about NITV?

A. No.

Q. All right. We'll come back to that in a
little more detail. I want to cover a few ground

1 rules first. This is probably a process that's
2 familiar with you given your experience and
3 position within the Arkansas Department of
4 Corrections, but as you can see, we're taking a
5 deposition, and Ms. Hill is taking down
6 everything that we say. Ultimately it will be
7 printed in a booklet. All of your answers need
8 to be verbal. If you gesture in some way, I may
9 ask you whether you mean yes or no. If you say
10 uh-huh or huh-uh, I will ask whether you mean yes
11 or no, just so the record conveys what you intend
12 it to convey.

13 I'm also not here to make you uncomfortable
14 in any way. If you need a break, I don't care if
15 it's three minutes from now, just say, hey, Jim I
16 need a break, and we'll take one. The only thing
17 I ask is that we finish whatever question that's
18 pending so that we can start fresh when we get
19 back on the record. Is that fair?

20 A. Yes.

21 Q. I am human. I do not always ask perfect
22 questions. I wish I did. Invariably there will
23 be something I mess up in every deposition. If I
24 ask a question that you don't follow or don't
25 understand, please let me know, and I'll be happy

1 to rephrase my question. Is that fair?

2 A. Yes.

3 Q. All right. Probably the biggest rule we have
4 is to not talk over one another so that Ms. Hill
5 can get everything down. If I flag you down,
6 please wait on me to finish my question before
7 you begin your answer, and I will do my best to
8 wait on you to finish your answer before I start
9 my next question so that everything comes through
10 clearly.

11 All right. With that said, what is your full
12 name?

13 A. Aundrea Faye Culclager.

14 Q. A-n-d --

15 A. A-u.

16 Q. A-u. Okay. Faye, F-a-y-e?

17 A. Yes.

18 Q. Have you gone by any other last names?

19 A. Weekly and Fitzgerald and Massey.

20 Q. Maiden name is?

21 A. Fitzgerald.

22 Q. Okay. All right. And it has been
23 represented to me that you are a warden in the
24 Arkansas Department of Corrections?

25 A. Superintendent.

1 Q. Superintendent. All right. Tell me what's
2 the hierarchy? I don't --

3 A. As far as the Department of Corrections as a
4 whole --

5 Q. Well, just typically for your line of work.
6 You know, I know there's probably all kinds of
7 branches in the ADC, but for your line of work so
8 we know that Ms. Fletcher started I think as some
9 type of officer, then was a corporal, then would
10 have been sergeant, and then up the chain. So
11 using that kind of as a reference point, take me
12 through the hierarchy and how you rank.

13 A. Corporal, then sergeant, then lieutenant,
14 then captain, then major, then deputy warden,
15 then warden and then superintendent.

16 Q. And when were you promoted to superintendent?

17 A. September of 2020.

18 Q. So recently. All right. How long did you
19 serve in the capacity as a warden approximately?

20 A. Three years.

21 Q. How long did you serve as a deputy warden
22 approximately?

23 A. About 10. 10 years.

24 Q. How long have you been with the ADC?

25 A. 32.

1 Q. Wow. Have you worked for anybody else in
2 that 32-year period?

3 A. No.

4 Q. How far did you go in school?

5 A. Master's degree.

6 Q. From where?

7 A. University of Phoenix.

8 Q. And where did you get your undergrad?

9 A. University of Arkansas Little Rock.

10 Q. And what is that degree in?

11 A. Criminal justice.

12 Q. When did you get your undergrad degree from
13 UALR in criminal justice?

14 A. 2009.

15 Q. Is that something you did later in life?

16 Obviously not right out of high school.

17 A. Yes.

18 Q. All right. Have you reviewed anything to
19 prepare for your deposition today?

20 A. Yes.

21 Q. What have you reviewed?

22 A. The actual SEAGAP hearing.

23 Q. The transcript?

24 A. Yes.

25 Q. I didn't bring all of that. I brought --

1 I've got a couple of pieces of it, but I have
2 also a series of reports that were prepared by
3 Ms. Best with Internal Affairs. Did you happen
4 to review any of those documents?

5 A. Yes.

6 Q. Do you remember anything else you reviewed?

7 A. No.

8 Q. Did you have a chance to look at the
9 surveillance videos again? I know you would
10 have --

11 A. No.

12 Q. -- looked at them back when the SEAGAP
13 hearing occurred. Would that have been 2019 I
14 guess?

15 A. No.

16 Q. You haven't looked at anything else. All
17 right. When do you first remember meeting Bianca
18 Fletcher?

19 A. Around 2017 I believe.

20 Q. When she was under your supervision?

21 A. When I was at the Max as the deputy warden.

22 Q. Okay. And I believe her records show -- and
23 please correct me if I'm wrong -- that she would
24 have started in the 2016 time frame, and that
25 worked at Tucker Max. Is that consistent with

1 your recollection?

2 A. As with dates, I'm not sure on that.

3 Q. Does the range sound reasonably close?

4 A. Sounds reasonable, yes.

5 Q. How long did you work at Tucker Max?

6 A. Approximately three years.

7 Q. In what capacity did you serve there?

8 A. Deputy warden and warden.

9 Q. What time frame are we talking about?

10 A. 2015 up until 2018 deputy warden.

11 Q. All right.

12 A. '17 or '18 deputy warden.

13 Q. All right. So when these events that
14 transpired, I have them actually as occurring in
15 April 30, 2019 was when Ms. Fletcher went through
16 the scanner. What was your job on that day?

17 A. I was the warden.

18 Q. You were the warden?

19 A. Yes.

20 Q. Okay. At Tucker Max?

21 A. Yes.

22 Q. Now, I've been to that place like once or
23 twice, and I don't remember the layout, but I
24 remember there's multiple buildings there, or
25 maybe I'm getting them and Cummins confused. But

1 did you actually work in the prison building as
2 the warden?

3 A. Yes.

4 Q. So would you have to go through the scanner
5 system every day just like everybody else?

6 A. Yes.

7 Q. So let's talk about that process. When you
8 pull into the parking lot, there's like a gate or
9 an entry building, I think is what it's called;
10 is that correct?

11 A. Yes.

12 Q. When I went through, I don't remember a
13 scanner. I remember a typical magnetron thing
14 like you would go through at the courthouse. Is
15 the scanner something different than that?

16 A. Repeat that.

17 Q. Let me just start over. Take me through what
18 happens when you walk through that entrance
19 building to gain access to the prison back in
20 April of 2019. Tell me -- describe for me that
21 process.

22 A. You walk through the door. You have to clear
23 the Adani scanner, and any items that you have
24 you have to -- they have to go through the
25 scanner as well. Step onto the Adani scanner,

1 they scan you, you step down. There's a cell
2 phone tower that you have to clear. They do a
3 pad search. And if all that clears, then you are
4 free to put your clothing back on. When I say
5 clothing, that means your belt and shoes, things
6 of that nature, then you're cleared to go on in
7 the facility.

8 Q. Okay. And you walk -- you exit the entrance
9 building on the other side. There's some sort of
10 gated mechanism there that then gets you access
11 to a long sidewalk that takes you to the next
12 main building; is that correct?

13 A. Yes.

14 Q. Now, the cell phone tower, you say you have
15 to clear that. What does that mean?

16 A. The cell phone tower picks up if you have a
17 cell phone on you, so you have to stand in front
18 of the cell phone tower and make a complete turn,
19 360 degree turn. And if it alerts, which means
20 if a red light lights up or it shows that the
21 cell phone tower goes off, then they have to make
22 sure that you don't have anything, and they might
23 make you go back through the actual Adani
24 scanner. It just all depends on if it lights up
25 or not.

1 Q. So the Adani scanner, what does that look
2 like? So my frame of reference is the airport,
3 and I don't know if that helps.

4 A. The Adani scanner, it's got like a platform
5 that you step onto, and the platform pulls you
6 through the actual scanning part. Once you go
7 through the actual scanning part, it alerts to
8 anything that might be on your person. It shows
9 an image of your body, and it can detect if you
10 have anything up under your clothes, it shows an
11 image.

12 Q. Okay. And I want to cover the Adani -- well,
13 we can go ahead and talk about it now. As you
14 know, Ms. Fletcher claimed that she went through
15 the Adani scanner twice before you get there, and
16 there were concerns that it showed something down
17 near her vaginal area in her clothing. She
18 claimed that that was a false read. Does the
19 Adani scanner make false readings, and if so, in
20 what circumstances?

21 A. Yes, it has been known to make false
22 readings. Anytime anyone comes through and there
23 is an image and you can't determine what it is,
24 we consider that to be an anomaly. That means
25 that we have to know exactly what it is. So if

1 there is an image, we have them go through a
2 second time. If they can't clear the second
3 time, then we ask them do they consent to a strip
4 search. Then if they consent to a strip search,
5 then we strip search them, and then we have them
6 go back through the Adani scanner.

7 Q. And that's pretty much what happened with Ms.
8 Fletcher as I understand it?

9 A. Yes.

10 Q. All right. The purpose of the second trip
11 through the Adani scanner, does that typically
12 resolve whether or not there's something there or
13 not something there on the Adani scanner?

14 A. No, it doesn't.

15 Q. Okay. How do you -- tell me with what
16 frequency do you have problems with the Adani
17 scanner. And that's a bad question. I can tell
18 from your look. Let me start over with my
19 question and give you something more specific.

20 How frequently do you have issues where
21 there's something that shows an anomaly, and then
22 you do your further check and there's no anomaly
23 there, via strip search or pat-down or what have
24 you?

25 A. Not very often.

1 Q. So that's not an every person coming through
2 issue?

3 A. No.

4 Q. Is it even more than once a day in your
5 experience?

6 A. No.

7 Q. Okay. Is it more than once a week in your
8 experience?

9 A. No.

10 Q. Okay. So it's not very frequent at all that
11 you have an anomaly that's unverified?

12 MR. GILLHAM: Objection to form.

13 Q. In your experience?

14 MR. GILLHAM: Objection to form. Go
15 ahead.

16 Q. Do you want me to start over with that
17 question?

18 A. Yes.

19 Q. All right. I'm not sure I can ask it again.
20 Let me try. So in your experience, to have an
21 anomaly on the Adani scanner that's not
22 subsequently verified is an infrequent
23 experience; is that true?

24 MR. GILLHAM: Objection to form.

25 And when I do that, you can go ahead and answer.

1 It's just a lawyer thing I've got to do. I'm not
2 trying to interfere with him or suggest an
3 answer. You just ignore me.

4 A. Okay. Now, ask me that question one more
5 time.

6 Q. Sure.

7 MR. GILLHAM: I'll just have that
8 objection, and I won't state it again.

9 MR. ROBERTSON: Agreed. You don't
10 have to repeat your objection on this question.

11 Q. All right. So we're going to start over with
12 the question. In your experience, based on your
13 years at the Arkansas Department of Correction,
14 when you have a scenario where the Adani scanner
15 shows an anomaly that is not subsequently
16 verified, i.e. nothing is found, is that an
17 infrequent occurrence?

18 A. Yes.

19 Q. All right. How many people go through a
20 scanner in a given day at Tucker Max? And an
21 estimate is fine.

22 A. It all depends on how many people come inside
23 the facility. It fluctuates based on the fact
24 you might have a lawyer to come in or you might
25 have a vendor to come in, so it kind of

1 fluctuates day to day.

2 Q. Let's talk about just employees. Every
3 employee has to go through that same process?

4 A. Yes.

5 Q. How many of those would have been there
6 approximately April of 2019?

7 A. On a daily basis, based on two shifts, which
8 is the night shift and the day shift that would
9 actually have to come in and clear it, as well as
10 any of your program people that works in the
11 office, I would say about maybe 50.

12 Q. 50. Okay. So minimum 50 people per day go
13 through the Adani scanner?

14 A. 50 people per day, but anytime a person goes
15 outside the facility and come back in, they have
16 to go through it again.

17 Q. Okay. So it could be as much -- typically
18 more than 50 then?

19 A. Yes.

20 Q. All right. And on a given day, like for
21 example, with Ms. Fletcher where you were
22 actually called because there were two trips
23 through the Adani scanner that showed a positive
24 finding or an anomaly, and then a strip search
25 that was consented to and ordered, it is my

1 impression that it is not very frequently that
2 the warden has to come down there and supervise
3 that process; is that true?

4 A. No.

5 Q. It's not true?

6 A. No. Usually if I'm on the compound, I get
7 the call, regardless of whether I'm on duty or
8 not, to let me know that we have someone that
9 couldn't clear the scanner. At that point I go
10 down and I look at it myself.

11 Q. How frequently does that typically happen?

12 A. Within what time frame?

13 Q. April of '19.

14 A. April of '19, probably twice. Two times.

15 Q. In the whole month?

16 A. That I looked at it.

17 Q. All right. So would one of those two have
18 been Ms. Fletcher?

19 A. Yes.

20 Q. Do you remember -- I don't need names. But
21 do you remember the circumstances of the other
22 one?

23 A. No, sir.

24 Q. Okay. So let's track through some of our
25 documents. I'm going to -- we have a series of

1 documents.

2 MR. ROBERTSON: I want to -- let's
3 just do new numbers per depo, if that's okay,
4 unless you --

5 MR. GILLHAM: I don't -- it's your
6 deposition.

7 MR. ROBERTSON: Well, I didn't know
8 if you wanted one set.

9 MR. GILLHAM: You can do it however
10 you want.

11 Q. I want to cover some of the documents that
12 Mr. Burns provided to us via subpoena
13 technically -- well, can y'all share one?

14 A. Yes.

15 Q. I'm going to show you first what's marked as
16 Exhibit No. 1 to your deposition, and I'll
17 represent to you that this has been produced in
18 two separate occurrences. If you see there's a
19 handwritten 161, that's because it was a part of
20 the SEAGAP hearing apparently. And then you have
21 the ADC 234 number. That was one of several
22 hundred pages that were produced by Mr. Burns
23 when we issued a subpoena. In particular, do you
24 recognize this document?

25 (Deposition Exhibit No. 1 was

1 marked.)

2 A. Yes.

3 Q. And is this the document that sets forth the
4 company's -- or excuse me -- the ADC's policies
5 and procedures for searches looking for
6 contraband?

7 A. Yes.

8 Q. All right. And is this a document that
9 guides what you do and don't do in any given day
10 in searching for contraband, at least as of April
11 of 2019?

12 A. Yes.

13 Q. Why do you -- give me some examples of
14 contraband.

15 A. Contraband can be a cell phone. It can be
16 food. It could be drugs. It could be
17 unauthorized shoes -- well, contraband, it could
18 be like a lighter. It could be just anything
19 that based on policy or either ADC staff are not
20 allowed to bring in.

21 Q. Okay. Let's talk about the bank card. Is a
22 bank card contraband?

23 A. Yes.

24 Q. Why?

25 A. It's not authorized to come inside the

1 facility.

2 Q. And I take it it's something that you don't
3 want prisoners having access to?

4 A. Correct.

5 Q. And I'm a layperson, so tell me why you would
6 not want a prisoner to have access to a bank
7 card.

8 A. Just based on some of the crimes. You have
9 inmates in there that are in there for fraud and
10 other things of that nature, so staff don't need
11 a bank card.

12 Q. Right. And that's for their own protection
13 as much as anybody else's?

14 A. Correct.

15 Q. You mentioned food. Would there be any
16 reason for a staff worker such as Ms. Fletcher to
17 carry food through the security scanner into the
18 main building?

19 A. Yes, because the food items have to be
20 checked.

21 Q. Okay. So they can bring food in, it just has
22 to be checked?

23 A. Yes. And it has to meet the guidelines as
24 far as what you can bring in.

25 Q. There was testimony that came out two days

1 ago with Ms. Fletcher that she was carrying food.
2 I did not see food -- after the fact, I looked at
3 pictures, I didn't see it, and I looked through
4 the record again, and I've seen no reference to
5 her having food on her. It wasn't mentioned
6 anywhere that I saw in the SEAGAP hearing
7 testimony. Do you remember her having food when
8 she went through and was in the conference room,
9 for example?

10 A. No, I don't recall.

11 Q. And you were in the conference room with her,
12 correct?

13 A. Yes.

14 Q. Okay. The -- that was Exhibit No. 1 to your
15 deposition. I want to cover some basic
16 documents. I want to show you what we'll mark as
17 Exhibit No. 2 to your deposition, and I'll

18 represent to you this is an End-User License
19 Agreement from my company which would have gone
20 to -- or my client's company which would have
21 gone to the ADC setting forth the ground rules,
22 if you will, for how their device is used.

23 (Deposition Exhibit No. 2 was
24 marked.)

25 Q. If you go to Page 2 of that document, and

1 then there's VIII, and I'm going to read it to
2 you, and you tell me if I read it accurately.
3 And I want to read it to you and you tell me. It
4 says Caveat, NFS sell the Computer Voice Stress
5 Analyzer as an investigative tool. The results
6 of any testing should not be used as a final
7 determinant, nor should the results of any test
8 be included in a probable cause affidavit. The
9 results of a CVSA examination should not be used
10 to obtain an arrest or search warrant. Did I
11 read that accurately?

12 A. Yes.

13 Q. Have you ever seen that document before,
14 Exhibit No. 2?

15 A. No.

16 Q. All right. Let's talk about something you
17 would have seen and we'll mark as Exhibit No. 3,
18 an Administrative Directive from the Arkansas
19 Department of Correction that talks about use of
20 the CVSA device, and do you recognize this
21 document, Exhibit 3?

22 (Deposition Exhibit No. 3 was
23 marked.)

24 A. Yes.

25 Q. All right. Turn to Page ADC 46 at the

1 bottom, and you can see from the heading at the
2 top, it's discussing internal investigations and
3 CVSA exams, correct?

4 A. Yes.

5 Q. And then the item that's listed as No. 4 on
6 this report -- or this policy says, and I'll read
7 it, and you again tell me if I've read it
8 accurately. The requesting authority will not
9 sustain a complaint against an employee solely on
10 the basis of a Computerized Voice Stress Analysis
11 result. There must at least be one additional
12 item of corroborating evidence in a written
13 report completed by the investigating officer in
14 order for the requesting authority to sustain a
15 complaint. Did I read that accurately?

16 A. Yes.

17 Q. All right. Is that consistent with the
18 language I read to you from the End-User License
19 Agreement, meaning the CVSA is not to be used by
20 itself to make a decision?

21 A. Yes.

22 Q. Okay. Take it through just the narrative, if
23 you will, of what you remember how you got notice
24 of what was going on that day.

25 A. I got a phone call at home by Captain Kelly

1 stating that Ms. Fletcher could not clear the
2 Adani scanner. I asked the question had she been
3 through twice, and they stated yes, and it still
4 showed the image, so I instructed Captain Kelly
5 to take her to the conference room and that I
6 would be up to the unit.

7 Q. Okay. How long did it take you to get there?

8 A. Maybe five or 10 minutes.

9 Q. Oh. So you don't live far from Tucker Max?

10 A. No.

11 Q. Okay. And actually, there's some housing or
12 looks like housing outside the unit. Did you
13 happen to live in one of those at the time?

14 A. Yes.

15 Q. Okay. So you get into the unit. What
16 happened next?

17 A. I go into the unit. The officer that was
18 running the scanner, which would have been Ms.
19 Barnes. I looked at the image, and it showed
20 something in the vaginal area. I proceeded on
21 into the building to the conference room, and
22 when I got to the conference room, Ms. Fletcher
23 was sitting -- Ms. Fletcher was in there, as well
24 as Corporal Releford. And I asked Corporal
25 Releford why was she in there with Ms. Fletcher,

1 and she said she was instructed to sit in there,
2 and so I relieved her and told her she could
3 leave.

4 Q. Okay. What happened next?

5 A. I then asked -- I told Ms. Fletcher what I
6 had seen, which I told her I did see something on
7 the scanner, and I asked her did she have
8 anything, and she stated that she didn't. At
9 that point I asked her would she submit to a
10 strip search, because based on the image, there
11 was something definitely there, and she told me
12 yes. I had Captain Kelly, as well a sergeant
13 that was on the shift, that day shift -- Ms.
14 Fletcher works the night shift, so I had the
15 officer on -- sergeant on the day shift, Sergeant
16 Harris.

17 Q. Is that Cora Harris?

18 A. Yes. She came and she assisted Captain Kelly
19 with the search, the strip search. They strip
20 searched her and advised that they did not find
21 anything. I told them to take her back out to
22 the entrance building and run her back through
23 the Adani scanner to see if the image was still
24 there. They ran her through the scanner, and the
25 image was not there.

1 Q. What happened next?

2 A. I can't remember whether they shook her car
3 down at that point or not, but I do know she come
4 back in the conference room, and I advised her
5 that I would be relieving her of duty, as well as
6 sending her to Internal Affairs, because based on
7 what I seen on the scanner, there was definitely
8 something there.

9 Q. Let me ask you about that. So we've talked
10 about at the beginning that the scanner can be
11 wrong, and you obviously have experience looking
12 at images from that scanner. I take it from the
13 tone of your statement just a moment ago that you
14 believe firmly that the scanner was showing
15 something and not some mis -- known anomaly; is
16 that true?

17 A. Yes.

18 Q. And why do you make that statement?

19 A. Based on the shape and the clarity of the
20 photo, the image that I seen, it was consistent
21 with some other images that I had seen whereas
22 contraband was found.

23 Q. So you've seen images that were anomalies
24 didn't amount to anything and images with
25 anomalies that did. And is it your opinion that

1 the image you saw with Ms. Fletcher more
2 better -- or more closely resembled the prior
3 images that you've seen which did show an actual
4 contraband?

5 A. Yes.

6 Q. All right. I want to cover one quick thing
7 with you, and then we'll get back on the
8 narrative. I'm going to mark a statement from
9 the ADC file which will be Exhibit 4, and I'll
10 represent to you that this is a report from
11 Sergeant Harris. And from her report it
12 basically documents what you just told me, that
13 she conducted a strip search of Ms. Fletcher at
14 your request, correct?

15 (Deposition Exhibit No. 4 was
16 marked.)

17 A. Yes.

18 Q. And I'm going to read about in the middle it
19 says, clothing items were searched by me,
20 Sergeant C. Harris, and Captain Kelly, no
21 contraband was found in the clothing. Did I read
22 that correctly?

23 A. Yes.

24 Q. And have you had a chance to review through
25 that? There's no mention of any bank card being

1 found, is there?

2 A. No.

3 Q. All right. And from your testimony a minute
4 ago, you described that when Captain Kelly and
5 Ms. Harris came back, they said nothing was
6 found. Did they tell you about a bank card at
7 that time?

8 A. Not at that time.

9 Q. All right. If Ms. Harris had found a bank
10 card in the strip search, would you have expected
11 her to put it in her report?

12 A. Yes.

13 Q. And it's not in that report?

14 A. No.

15 Q. Did anybody, to your knowledge, follow back
16 with Ms. Harris and verify that there was a bank
17 card actually found as opposed to one being
18 reported later?

19 A. No.

20 Q. Okay. Who told you, to your knowledge, about
21 the bank card?

22 A. I can't remember whether it was Captain
23 Kelly, or Ms. Fletcher might have said something.

24 Q. Do you remember where they told you the bank
25 card was found?

1 A. In her back pocket.

2 Q. Okay. And again, is a bank card contraband?

3 A. Yes.

4 Q. There were two reports completed by Internal
5 Affairs -- I tell you what, we'll use the ones
6 that we used yesterday. Exhibit No. 1 from Ms.
7 Fletcher's deposition is a report dated May 2nd,
8 2019 from Ms. Donna Best. I'll give you a second
9 just to thumb through that. And for the record,
10 have you seen that report before?

11 A. Parts of it.

12 Q. And maybe the narrative, the first three
13 pages as opposed to the detail from the CVSA?

14 A. Yes.

15 Q. Okay. And the reason why I phrased my
16 question that way, it's been produced to me in
17 two ways; one is the complete set like what you
18 have, and then it appears elsewhere, like in the
19 SEAGAP hearing I think it only had the three
20 pages attached to it.

21 I want to show you next what was Exhibit No.
22 2 to Ms. Fletcher's deposition, which is a very
23 similar report but dated the next day, May 3rd,
24 2019. Is that another document that you would
25 have at least seen the narrative of with respect

1 to the SEAGAP hearing?

2 A. Yes.

3 Q. Okay. So the first two pages of that report,
4 which is the investigator summary, you've seen
5 but you may not have seen the last part?

6 A. I haven't seen the last part. I've seen the
7 questions where they ask the actual questions,
8 and the front page would be more of a narrative,
9 maybe something different than I actually
10 received. I don't get the actual --

11 Q. So the part that I'm referring to that was --
12 again, I saw this in two different phases; there
13 was just the narrative, and then the narrative
14 with the actual results of the CVSA that was
15 administered. If you would, set those just to
16 the side for a moment.

17 So we're going to get back to additional
18 exhibits. I want to show you what we're marking
19 as Exhibit No. 5, and this is -- and Exhibits 5
20 and 6 are going to be real close to what we just
21 went through, except these are going to be for
22 Captain Nicola Kelly and their investigative
23 report. So I'll ask you if you recognize Exhibit
24 5, which is the May 2nd, 2019 Internal Affairs
25 report on Captain Kelly?

1 (Deposition Exhibit Nos. 5 and 6
2 were marked.)

3 A. Yes.

4 Q. All right. And I'll show you Exhibit 6 which
5 is the May 3rd, 2019 report on Captain Kelly.

6 Have you seen that document before?

7 A. Yes.

8 Q. Okay. And these documents are -- well, first
9 off, they're prepared by a person named Donna
10 Best. Do you know who Donna Best is?

11 A. Yes.

12 Q. And who is she?

13 A. Ms. Best handles all of the employee
14 grievance hearings.

15 Q. Did -- do you know if she -- well, Ms. Best
16 works for Mr. Naylor or with Mr. Naylor?

17 A. No. Ms. Best works -- I think her immediate
18 supervisor would be -- she works for Ms. Cryer
19 now.

20 Q. Okay. If you know.

21 MR. BURNS: She's getting that
22 confused. You're thinking of Tammy Baker.

23 THE WITNESS: Oh, okay.

24 Q. Yeah. No big deal.

25 A. Yeah.

1 Q. But Donna Best --

2 A. Yeah, she does work for Raymond Naylor.

3 Q. All right. Exhibits 5 and 6 to your
4 deposition and Exhibits 1 and 2 on the deposition
5 of Ms. Fletcher appear to represent an
6 investigation that was conducted by Ms. Best with
7 her using the CVSA exam?

8 A. Yes.

9 Q. Okay. And did you rely on information
10 contained in these reports when you were making
11 your termination decisions for Captain Kelly and
12 Corporal Fletcher?

13 A. Yes.

14 Q. All right. I want to ask you just a few
15 things. The May 2nd report, they have some
16 similarities. For example, on Captain Kelly,
17 they report finding a bank card, but if you turn
18 to Page 2 of 4 on the narrative which is under
19 ADC 279. And I'm on Exhibit 5. And in that last
20 paragraph on that page, it's reported that Ms.
21 Fletcher told Captain Kelly that she stopped and
22 got something to eat and stuffed the bank card in
23 her pocket, correct?

24 A. Yes.

25 Q. Okay. Do you remember Ms. Fletcher telling

1 you that she used the card to buy gas, not food?

2 A. Yes.

3 Q. Okay. With respect to Exhibit 5 to your
4 deposition, this is Captain Kelly's report again,
5 Question 4 on the CVSA she was asked if Bianca
6 Fletcher passed contraband to her, and deception
7 was indicated. And then Question 6, did she hide
8 contraband in the unit, and deception was
9 indicated again, correct?

10 A. Yes.

11 Q. All right. And I believe there was a very
12 similar question asked of Ms. Fletcher in her May
13 3, 2019 in which she was asked if contraband was
14 passed to Captain Kelly, she denied that, but
15 deception was indicated on that as well, correct?

16 A. Yes.

17 Q. So both Kelly and Fletcher failed the
18 question when asked if Fletcher passed contraband
19 to Kelly, correct?

20 MR. GILLHAM: Object to form.

21 A. Yes.

22 Q. Okay. Did you have a chance to review the
23 surveillance video of Releford, Fletcher and
24 Kelly walking from the entrance building down the
25 sidewalk toward the conference room?

1 A. Yes.

2 Q. And did you make certain observations about
3 that surveillance video?

4 A. Yes.

5 Q. What were those observations?

6 A. That Corporal Fletcher, as her and Captain
7 Kelly -- which Releford was on the outside,
8 Fletcher was on the inside and Kelly was on the
9 outside -- that Fletcher goes toward Kelly, and
10 it appears where something is passed and Kelly
11 puts it in her pocket, and then they kind of
12 drift apart again as they are walking up the
13 walkway.

14 Q. So they get close together?

15 A. Yes.

16 Q. If I remember right, they get close together,
17 they may have bumped. They separate, they come
18 back close together, and then there's movement,
19 that in your view, would be consistent with a
20 hand-off of some sort?

21 A. Yes.

22 MR. GILLHAM: I'm going to object to
23 the form.

24 Q. And they split back apart?

25 MR. GILLHAM: Let the record reflect

1 that her answer kind of came over Mr. Robertson's
2 speech so I didn't have a chance --

3 MR. ROBERTSON: That's fine.

4 Q. Let me restart my question. Let's start over
5 with it. All right. When you were watching the
6 video, did you see where Ms. Fletcher who is in
7 the middle, and Ms. Kelly, who I think if you're
8 looking at the video would be on the right side,
9 correct, Releford, Fletcher, Kelly?

10 A. Yes.

11 Q. Okay. Did you see where they bumped?

12 MR. GILLHAM: Objection form.

13 Q. Or came in close contact?

14 MR. GILLHAM: Same objection.

15 A. Yes. They came in close -- you could see
16 where they got close enough. One hand went
17 behind the other one's back, and then it appeared
18 something went in the pocket.

19 Q. And by in the pocket, you mean Captain Kelly
20 putting something in her back pocket?

21 A. Back pocket.

22 Q. And you made a gesture with your hand as if
23 reaching behind your back to put something in
24 your pocket?

25 A. Yes.

1 Q. And you were mimicking what you saw on the
2 video, or what you think you saw?

3 A. What I saw.

4 Q. Okay. When Captain Kelly and Releford and
5 Fletcher arrived at the conference room, it's my
6 understanding that Releford and Fletcher stayed
7 in the room and Captain Kelly went to the
8 restroom; is that true?

9 A. No.

10 Q. It's not true?

11 A. No.

12 Q. What happened?

13 A. Once they came into the main building,
14 Fletcher and Releford went inside the conference
15 room and Captain Kelly went to the bathroom.

16 Q. Okay. Did that trigger a red flag in your
17 mind?

18 A. Yes.

19 Q. Why is that?

20 A. Captain Kelly was instructed to escort her to
21 the conference room since she is the captain and
22 she is the chief commander of the shift.

23 Q. Okay. And having seen the surveillance
24 video, did you later develop a concern that she
25 may have disposed of contraband when she went

1 into the restroom?

2 A. After seeing the video, yes.

3 Q. Okay. I want to point your attention to the
4 report, Exhibit 6 to your deposition. This will
5 be at the second page of the May 3rd report on
6 Captain Kelly, which is bates labeled ADC 283 at
7 the bottom right. In the pretest interview,
8 looks likes it's about the third sentence down,
9 and I'll read it, and you tell me if I read it
10 accurately. Captain Kelly stated she did not
11 pass me any contraband or nothing. If she did,
12 it was a piece of paper, but I don't even
13 remember her doing that. Did I read that
14 statement correctly?

15 A. Yes.

16 Q. Did she make a statement like that to you?

17 A. Yes.

18 Q. What did she say to you, and referring of
19 course to Captain Kelly?

20 A. Exactly what's stated here.

21 Q. Now, this is reportedly made to Ms. Best.
22 Were you present when this statement was uttered,
23 or did that happen at a different time?

24 A. No, I wasn't present, but any meetings that I
25 have they're recorded, and Ms. Best is -- she got

1 my recordings of the actual meeting.

2 Q. Okay. So were you in a meeting with Ms.
3 Kelly when she made that statement to you, that
4 if she passed anything, it might have just been
5 paper?

6 A. Yes.

7 Q. And does that still give you concern, that
8 even if it's just paper, that it may have been
9 contraband?

10 A. Yes.

11 Q. Ms. Fletcher actually described a
12 circumstance where people -- their letters don't
13 even go to the inmates anymore because they can
14 be soaked in drugs. What other concern would you
15 have of paper being passed inside the prison?

16 A. As you stated, inmates do soak paper. Now we
17 don't even allow paper products to come in due to
18 that fact. So when I asked her the question, she
19 stated that, no, she did not pass her anything,
20 but then stated, if she did, it was paper. So I
21 asked her, how can it be no, she didn't, but now
22 if she did, so I had a question about that.

23 Q. Okay. And in your mind's eye, did you begin
24 to think that she was lying to you?

25 A. Yes.

1 Q. There was testimony two days ago from Ms.
2 Fletcher that her pants were actually unbuttoned
3 when she was in the conference room. Do you
4 remember seeing that or hearing about that?

5 A. I remember seeing it.

6 Q. Okay. Would this be before the strip search
7 occurred?

8 A. I don't recall whether it was before or
9 after.

10 Q. Okay. Did anybody offer an explanation to
11 you as to why her pants would have been undone?

12 A. I asked her why her pants were unzipped, and
13 she told me that the button -- it was either a
14 button or something was wrong with the zipper,
15 one or the other. I can't remember exactly which
16 one, but I asked the question.

17 Q. Did you have a chance to inspect her clothing
18 to see if it was truly defective or if she was
19 lying to you?

20 A. No, I didn't inspect it.

21 Q. Did you -- and I'm looking in particular at
22 the pretest interview information, again, same
23 page, ADC 283. Did you ask Captain Kelly about
24 her prior relationship with Ms. Fletcher?

25 A. Yes.

1 Q. And what did she tell you?

2 A. When I first asked her, she only told me
3 about a baby shower, and then after I questioned
4 her about something else, then I think she told
5 me about an incident where she came to her house
6 and was cutting up some kind of bell peppers or
7 something like that.

8 Q. Okay. And it was for a potluck or something?

9 A. Something they were having on the shift.
10 Then I think asked her -- I can't remember
11 exactly how the questions went. But then I asked
12 her about something else, and then that's when
13 they told me, well, I'm going to be honest with
14 you, I did give her some answers to some
15 questions for a sergeant interview.

16 Q. And that was volunteered by Captain Kelly to
17 you?

18 A. Yes.

19 Q. Or to her?

20 A. To me, yes.

21 Q. All right. In this same report on Page 283,
22 it's written that she, referring to Captain
23 Kelly, denied ever communicating with Corporal
24 Fletcher via cell phone. She states that they
25 did not have that type of relationship and did

1 not have each other's phone numbers. Do you see
2 that?

3 A. Yes.

4 Q. Did Captain Kelly make those statements to
5 you?

6 A. Yes.

7 Q. All right. And contrast that with your
8 interview of Ms. Fletcher. Did Ms. Fletcher
9 describe a different relationship between her and
10 Captain Kelly than what Captain Kelly described
11 to you?

12 A. Yes.

13 Q. And what did Ms. Fletcher describe with
14 respect to their relationship?

15 A. That she had only invited her to a baby
16 shower, and as far as the relationship, I think
17 it was actually Ms. Fletcher who told me about
18 her going to Captain Kelly's house to do the
19 potluck. It wasn't Captain Kelly, it was
20 Corporal Fletcher was the one that actually
21 stated that she went to her house.

22 Q. And Captain Kelly did not describe any type
23 of interaction like that?

24 A. No.

25 Q. Okay.

1 A. She made it seem like she didn't know she was
2 coming, and I asked Ms. Fletcher did Captain
3 Kelly know you were coming, and she says, yes,
4 she knew I was coming.

5 Q. Okay. Did you view your interviews of Ms.
6 Fletcher and Ms. Kelly as inconsistent with
7 respect to their description of their
8 relationship with one another?

9 A. Yes.

10 Q. Did that cause you to conclude that one of
11 them was being untruthful, or perhaps both of
12 them?

13 A. Yes.

14 Q. And you didn't need the CVSA exam to tell you
15 whether or not they were being truthful or
16 untruthful to make that conclusion, did you?

17 A. No.

18 MR. GILLHAM: Objection to form.

19 Q. Now, Ms. Kelly, according to this report,
20 stated that they did not have the type of
21 relationship where they had each other's phone
22 numbers. I'll represent to you that two days ago
23 Ms. Fletcher had Ms. Kelly's phone number in her
24 phone and even read it to me on the record. That
25 would be inconsistent with any statement from Ms.

1 Fletcher that she did not have the phone number,
2 correct?

3 MR. GILLHAM: Objection form.

4 A. Yes.

5 Q. Okay. I'm going to show you what we'll mark
6 as Exhibit No. 7, and it's really just for my
7 information. This is a handwritten diagram that
8 was used in the SEAGAP hearing. Have you seen
9 that document before?

10 (Deposition Exhibit No. 7 was
11 marked.)

12 A. Yes.

13 Q. Is any of the handwriting on that document
14 yours?

15 A. No.

16 Q. There is -- and I'm holding it up. So we
17 have -- if you hold the -- in the landscape view
18 of the page, you have the entry building on your
19 right, correct?

20 A. Yes.

21 Q. And then it has CR on the far left, which I
22 assume would be conference room, correct?

23 A. Yes.

24 Q. There's a -- I guess that's a sidewalk, and
25 then there's an arrow pointing to the middle of

1 the sidewalk that says pass underneath it. Do
2 you know what that's referring to?

3 A. Based on the video footage, that would be the
4 area where you can actually see where they -- it
5 appears where they come close and something is
6 passed.

7 Q. All right. I'm going to show you what we'll
8 mark as Exhibit No. 8 to your deposition, which
9 is an Internal Affairs Final Report. The
10 requesting authority is you. The subjects, it
11 lists all three people, Bianca Fletcher, Jasmine
12 Releford and Nicola Kelly. I'll ask if you
13 recognize Exhibit No. 8?

14 (Deposition Exhibit No. 8 was
15 marked.)

16 A. Yes.

17 Q. All right. And have you reviewed this
18 document before?

19 A. Yes.

20 Q. How long has it been, days, weeks, months?

21 A. Months.

22 Q. Okay. Let's go to Page 8 of the report which
23 is marked as ADC 266. There's more statements in
24 here that were obtained from Kelly, and I'm
25 reading at the top. This is the -- I guess it's

1 the third sentence down. It says, Captain Kelly
2 stated she did not pass me any contraband or
3 nothing. If she did, it was a piece of paper,
4 but I don't even remember her doing that. That's
5 what we talked about previously, correct?

6 A. Yes.

7 Q. And she says, she stated they walked side by
8 side, and she, Captain Kelly, had a cup in her
9 hand. Do you remember seeing a cup in her hand
10 in any of the surveillance videos?

11 A. I don't recall, no.

12 Q. Okay. This report is dated May 6, 2019,
13 correct? First page at the bottom I think.

14 A. May the 6th.

15 Q. Okay. And that would be before the
16 termination of Ms. Fletcher and Ms. Kelly,
17 correct?

18 A. I'm not sure as far as the exact date, but it
19 would be before.

20 Q. All right. I want to show you -- first off,
21 I want to get my exhibits back. So we're looking
22 for Exhibit No. 2 that is the Fletcher May 3rd
23 report.

24 I want to show you what's Exhibit No. 9 from
25 Ms. Fletcher's deposition, and these are two

1 still shots from that sidewalk that day, and I'll
2 represent to you there's some typing at the
3 bottom on the first page that says Corporal
4 Bianca Fletcher passing an object to Captain
5 Nicola Kelly. Do you know who typed that, if you
6 know?

7 A. I don't remember.

8 Q. Okay. Fair enough. Do those two photographs
9 appear to show to you what we've been talking
10 about as the anticipated hand-off?

11 A. Yes.

12 Q. And if you look, we know the time stamp and
13 date is wrong on that screen cap, correct?

14 A. Yes.

15 Q. But we know, that if you look at the first
16 page and then turn to the second page, those two
17 pictures were taken one second apart, correct,
18 per the time stamp?

19 A. Yes.

20 Q. And in fact, you can see there's a crease in
21 the sidewalk, which in a former life, I would
22 have called that an expansion joint when I poured
23 concrete. Do you see that? It's directly behind
24 them?

25 A. Yes.

1 Q. Okay. In the second photograph they're not
2 very far, maybe a step or two, beyond that in
3 comparison to the first photograph?

4 A. Yes.

5 Q. All right. And you can see that the person
6 in the middle and the person on the right on the
7 first page of Exhibit 9 to Fletcher's deposition
8 are either touching or near touching, correct?

9 MR. GILLHAM: Objection form.

10 A. Yes.

11 Q. And describe for me what you're seeing on the
12 second picture on Exhibit 9 to Fletcher's
13 deposition.

14 A. I'm seeing Captain Kelly with her hand behind
15 her as if something -- what I'm seeing on the
16 second is Captain Kelly with her hand behind her
17 in her pocket area.

18 Q. As if she's putting something in her pocket?

19 A. Yes.

20 Q. Can you tell if Captain Kelly has got a cup
21 in her hand in either of those photographs?

22 A. No.

23 Q. And you can also see that in the middle Ms.
24 Fletcher is moving her jacket around; it goes
25 from one hand to the other, correct?

1 A. Yes.

2 Q. That video itself --

3 MR. GILLHAM: I'll probably use it
4 when I cross her.

5 Q. The video itself is not continuous motion,
6 correct, it takes a picture every second or two;
7 is that true?

8 A. Yes.

9 Q. I guess we call it old-school surveillance
10 video. All right. I'll tell you what I'll do, I
11 want to go ahead and just make a -- these aren't
12 very good. I'm trying to find the best set of
13 photographs to use.

14 MR. GILLHAM: Are they of the Adani?

15 MR. ROBERTSON: It's a packet that
16 came in the ADC file. They're all black and
17 whites, and they're not -- they've been copied
18 over so many times, I don't know which one is the
19 best one, but we'll just go with this one.

20 Q. All right. We'll mark as Exhibit No. 9 a
21 complete copy of the packet of photos that were
22 given to me by the ADC via subpoena. And I'll
23 show those to you, and if you will, just thumb
24 through those real quick for me.

25 (Deposition Exhibit No. 9 was

1 marked.)

2 Q. Okay. The first two photographs on Exhibit
3 No. 9 are the same two we were just talking about
4 which are also Exhibit 9 to Fletcher's
5 deposition, correct?

6 A. Yes.

7 Q. The remainder appear to be scans. Are all
8 those from the Adani scanner?

9 A. Yes.

10 Q. All right. You can see that, again, these
11 are bates labeled documents that are numbered as
12 ADC -- well, the scans start at like 177 and go
13 on back. If you would, look through there and
14 pick out the best photo, two or three, that helps
15 me understand what it is that you would have been
16 seeing on the scanner.

17 A. 182 and 183, 184 are your best ones.

18 Q. Okay. I'll tell you what I'll do -- I don't
19 know if blue or red will be better. I'm going to
20 slide you a pen. And if you will, on the best
21 ones, 182, 183, 184, I think you said, mark or
22 circle the object that you're talking about.
23 Okay. Now go to 185, can you see it on that one
24 as well?

25 A. Yes, you can see it, but not as clear,

1 because of the other little piece down at the
2 bottom here.

3 Q. All right. Let's go back to the first one
4 then which was 182?

5 A. Yes.

6 Q. And just for my information, I saw you circle
7 it, hold it up and show it to me one more time,
8 just so I -- okay. There is a defined white
9 patch there, correct?

10 A. Yes.

11 Q. All right. The sticker on the bottom of that
12 says Officer Fletcher 4/30/19, and it says
13 before. Do you know which of the two scans this
14 showed up from where the objects were still
15 showing up? Is there a way to tell?

16 A. Yes. The two -- the ones that say before,
17 that would be the ones when she originally first
18 went through the scanner.

19 Q. Okay. And what about these photographs again
20 makes you believe that this was not a false read?

21 A. Based on the size, based on the position.
22 When I say the position, where it's located and
23 the definite shape.

24 Q. Okay. So this would have been in your view
25 in her pubic area? Here's what I'm getting at;

1 everybody has used the word vagina, but this
2 appears to be above the vagina?

3 A. Uh-huh.

4 Q. And I'm trying to find out if you can tell me
5 anatomically where you believe that object is
6 located?

7 A. It could be either inserted in or it could be
8 on the outside, either or.

9 Q. Really. Okay. And that's based on what
10 you've seen in prior cases?

11 A. Yes.

12 Q. All right. Let me get Fletcher's 9 from you,
13 and we'll keep that in the stack over here. You
14 actually made the initial decision to terminate
15 Ms. Kelly and Ms. Fletcher, correct?

16 A. Yes.

17 Q. Was there anybody else in your view that
18 warranted disciplinary action for what happened
19 on April 30, 2019?

20 A. No.

21 Q. Do you have any history with the CVSA exam
22 personally?

23 A. Rephrase that.

24 Q. Have you ever taken one, been administered
25 one?

1 A. No.

2 Q. Have you ever had to go through a polygraph
3 exam?

4 A. Not that I can recall.

5 Q. Okay. Do you have any training on either
6 polygraph or CVSA exams?

7 A. No.

8 Q. Have you ever reviewed any of the literature
9 or publications from my client, NITV Federal
10 Services, LLC?

11 A. No.

12 Q. Has anybody, to your knowledge, made a claim
13 against the manufacturer of the Adani scanner for
14 being defective?

15 A. No.

16 Q. Are you satisfied with the performance of the
17 Adani scanner?

18 MR. GILLHAM: Objection form.

19 A. Yes.

20 Q. Have we covered all of the events surrounding
21 the termination of Ms. Fletcher and Ms. Kelly to
22 your knowledge?

23 MR. GILLHAM: Objection form.

24 A. Yes.

25 Q. Is there anything else that stands out in

1 your mind that you considered or relied upon in
2 making the termination decisions for those two
3 individuals?

4 MR. GILLHAM: Object to the form.

5 A. No. Based on what's in the report.

6 Q. All right. When Captain Kelly volunteered
7 that she had given answers to the sergeant's exam
8 to Ms. Fletcher, is that something that she could
9 have been disciplined for?

10 A. Yes.

11 Q. Is that something that's common or expected
12 with respect to people who are taking the
13 sergeant's exams?

14 A. No.

15 Q. Okay. They are not supposed to be given
16 those answers in advance?

17 A. No.

18 Q. Are they not even supposed to be given the
19 questions in advance?

20 A. When you say questions, each interviewer or
21 promotion panel have a different set of
22 questions, so you do have staff that may actually
23 jot down some of the questions, but when you talk
24 about a captain giving it to a corporal, then no.

25 Q. That should not have happened?

1 A. No.

2 Q. Did that demonstrate an element of bias to
3 you that Ms. Kelly is biased in favor of Ms.
4 Fletcher?

5 A. Yes.

6 Q. And is that a problem for someone who is in
7 leadership like Ms. Kelly?

8 A. It could be.

9 Q. All right. We have a situation where you're
10 investigating potential contraband being brought
11 into a prison, correct?

12 A. Yes.

13 Q. You have interviewed the person who had two
14 positive scans showing at least a potential that
15 something is there, correct?

16 A. Yes.

17 Q. You have surveillance video that makes it
18 sure look like something was handed off, correct?

19 A. Yes.

20 Q. You have Captain Kelly immediately going to
21 the restroom, which was an opportunity for her to
22 discard what it made it look like on the video
23 that she had been handed, correct?

24 MR. GILLHAM: Object to form.

25 A. Yes.

1 Q. You interviewed Ms. Fletcher and Ms. Kelly,
2 and they provided inconsistent statements to you
3 concerning their knowledge of one another,
4 correct?

5 MR. GILLHAM: Objection form.

6 A. Yes.

7 Q. Do you form the belief that one or both of
8 them were lying to you at the time, correct?

9 MR. GILLHAM: Objection form.

10 A. Yes.

11 Q. You did not need the CVSA exam to tell you
12 that they were lying to you, did you?

13 MR. GILLHAM: Object to form.

14 A. No.

15 Q. Given the circumstances of this termination
16 and the fact that you had inconsistent
17 statements, surveillance video, Adani scanner
18 showing the presence of an object, and especially
19 with the fact that one or both had lied to you,
20 was there any way that you could allow them to
21 remain employed with Arkansas Department of
22 Corrections?

23 MR. GILLHAM: Objection form.

24 A. No.

25 Q. And you didn't need the CVSA exam to tell you

1 why don't we take a break and let her look at it.

2 If she says it's accurate, then that's --

3 MR. GILLHAM: Well, I don't have a
4 printed out copy.

5 MR. ROBERTSON: I do.

6 MR. GILLHAM: You do, oh, okay.

7 MR. ROBERTSON: I have hers. I
8 don't have anybody else's.

9 MR. GILLHAM: That'll work.

10 (A break was taken.)

11 (Back on the record.)

12 EXAMINATION

13 BY MR. GILLHAM:

14 Q. So, ma'am, we took a break. You have had the
15 opportunity to review the transcript that the ADC
16 had provided of your testimony at the SEAGAP
17 hearing for Ms. Fletcher. Did that accurately
18 reflect what your testimony was in that hearing?

19 A. Yes.

20 Q. And did you tell the truth in that hearing?

21 A. Yes.

22 Q. And -- thanks. That makes everything a
23 little bit quicker, because I'm not going to
24 necessarily ask as many things. One thing I
25 wanted -- I've got here your -- your Exhibit 9

1 that, did you?

2 MR. GILLHAM: Objection form.

3 A. No.

4 Q. Based on what you know today, would you have
5 terminated both of those individuals even if the
6 CVSA exam had not been performed?

7 MR. GILLHAM: Object to form.

8 A. Yes.

9 MR. ROBERTSON: I pass the witness.

10 MR. GILLHAM: Jim, can we stipulate
11 to -- you know, they gave a transcript of the
12 hearing to us, and my cross-examination is going
13 to be shorter if we can stipulate that that's an
14 accurate transcript, but if you can't, then I'm
15 going to have to go on.

16 MR. ROBERTSON: I'm assuming it's
17 accurate. I mean, was it a court reporter that
18 did it?

19 MR. BURNS: The SEAGAP panel?

20 MR. GILLHAM: It was recorded. You
21 did not have a court reporter?

22 MR. BURNS: Right, it's recorded.
23 We don't have a court reporter there, but the
24 SEAGAP administrator is the one who --

25 MR. ROBERTSON: Well, let's do this;

1 there, and then Mr. Robertson had two pages that
2 had somewhat better copies -- or maybe these are
3 direct printouts of photos rather than copies --
4 than is in your packet. Would you agree with me
5 that what I'm showing you there is kind of a
6 better copy than those pictures?

7 A. Yes.

8 Q. And one is color in fact. So anyway, I think
9 you were saying that the video camera doesn't
10 really -- it's not really a true video camera,
11 it's more like it's taking a frame every second
12 or something like that, or it's taking -- it's
13 not just like a continuous video. Apparently it
14 takes a shot every second or half-second or
15 something; is that what's going on?

16 A. Yes.

17 Q. And looking at the document there on your
18 left, Mr. Robertson's two pages, is that about
19 the resolution if you were just looking at the
20 actual -- I don't know what to call it, because
21 it's not truly video. If you're looking at the
22 actual screen, the actual like if you're playing
23 the recording on a computer or something like
24 that, is that about the resolution that you would
25 see on the screen?

1 A. No.

2 Q. Is it better, is it worse?

3 A. It's better. It's better.

4 MR. GILLHAM: Did you get that
5 video?

6 MR. ROBERTSON: I don't have it. He
7 found a lady to show it to me when I got here.

8 MR. GILLHAM: I want to -- at some
9 point I'm going to issue a subpoena to get the
10 actual video, because I've seen it too, years
11 ago, you know.

12 MR. BURNS: Yeah.

13 MR. GILLHAM: But we're going to
14 need better -- we probably want better than this
15 if there's better than this available.

16 Q. So anyway, one thing, is that video is
17 straight on, goes straight down -- looks like
18 it's probably on the building that the sidewalk
19 leads into; is that correct, is that where the
20 camera is?

21 A. I'm not sure whether it's on that building as
22 far as the direction of the camera, but it would
23 catch the area.

24 Q. It's coming from the direction of the
25 building that the conference room is in, correct?

1 A. Yes.

2 Q. And it kind of -- can the camera see the
3 entire sidewalk?

4 A. Yes.

5 Q. Are there any other video cameras that cover
6 that sidewalk other than that one?

7 A. I'm not sure.

8 Q. And, you know, in your life you've seen
9 people walk, right?

10 A. Yes.

11 Q. I know it's a stupid question. But in your
12 life, you've seen two people walking, right?

13 A. Yes.

14 Q. And one thing that happens when they walk is
15 -- and I'm just going to stand here -- is they
16 sometimes swing their hands front to back like
17 this as they're walking?

18 A. Yes.

19 Q. And so if you have two individuals and their
20 hands are swinging kind of front to back, one
21 person's hand could be behind another's, but they
22 wouldn't actually be touching, but you wouldn't
23 necessarily be able to tell that from a video; is
24 that fair?

25 A. No, it's not fair.

1 Q. Why?

2 A. Based on the video you can see that.

3 Q. Did you watch the video?

4 A. Yes. Yes, I watched the video.

5 Q. And you're saying that you can see it on the
6 video?

7 A. Yes.

8 Q. Can you see an item in their hands in the
9 video?

10 A. You can't see the item.

11 Q. Okay. In the video, is the resolution good
12 enough that you can see their eyes?

13 A. Yes.

14 Q. Okay. Now, in terms of -- in terms of the
15 room that she was initially in where the Adani
16 scanner is, is that just -- does that building
17 contain the whole -- is it just one room; does it
18 have any other rooms in it?

19 A. Yes. It has a bathroom, and then it has a
20 utility closet.

21 Q. And does that building have video cameras in
22 it?

23 A. Yes.

24 Q. And when Ms. Fletcher was in there, before
25 she walked down this sidewalk, did she go

1 anywhere else before she went down the sidewalk
2 with Releford and Captain Kelly?

3 A. I don't recall seeing her go anywhere else.

4 Q. And you didn't see her go into the bathroom
5 or the utility closet, did you?

6 A. No.

7 Q. And that's the sort of thing you would --
8 like if you have this situation, and Ms. Fletcher
9 had gone into the bathroom where things could be
10 flushed, for instance, that would raise some real
11 questions and flags, wouldn't it, right?

12 A. Yes.

13 Q. So if that had happened, you would have
14 noticed it, correct?

15 A. Yes.

16 Q. And then not only was there cameras in that
17 room that she was in, but there were always
18 people in that room she was in as well, correct?

19 A. Yes.

20 Q. And nobody ever saw her reach into her pants
21 or pull contraband out or anything like that
22 while she was in that room, did they?

23 A. No one stated they did.

24 Q. And that doesn't appear anywhere on the video
25 that y'all would have watched while she was in

1 the room; is that correct?

2 A. I would have to go back and look at that
3 video again.

4 Q. Did you look at the video at the time when
5 you were doing this investigation?

6 A. Yes, I looked at it.

7 Q. And if you had noted that it appeared that
8 she was reaching into her pants or something like
9 that while she was in that room, that's the sort
10 of thing you would have noted, write down and put
11 in the investigation, right?

12 A. Yes.

13 Q. And we would have photos like we have of
14 Exhibit 9 here, correct?

15 A. Correct.

16 Q. And so then -- while she's in that room, if
17 you or the investigators had seen anything that
18 appeared to be a pass while she was in the Adani
19 scanner room, y'all would have noted that and
20 kept photos, video, that sort of thing, of that,
21 correct?

22 A. Correct.

23 Q. But y'all didn't see anything like that,
24 right?

25 A. No.

1 Q. Okay. On the walk -- once she goes out that
2 room, does she -- out the Adani scanner room,
3 does she go directly onto this sidewalk that's in
4 Exhibit 9?

5 A. No. She walks out the entrance building
6 area, and there's a gate when she walks outside
7 the door that has to be opened, and then there's
8 another gate she has to walk through, and then
9 she walks onto the sidewalk.

10 Q. Okay. And does the video that's got the
11 pictures in Exhibit 9, can it see them at that
12 gate area that you were talking about before they
13 hit the sidewalk?

14 A. Yes.

15 Q. And so the video camera that's coming from
16 the direction of the conference room building
17 that some of the stills are in Exhibit 9 there,
18 that would see -- be able to see everything that
19 she does from the moment she walks out the Adani
20 scanner building; is that correct?

21 A. I'm not sure how many cameras we actually had
22 on the -- in that area. I know we had that one
23 on the building, but I don't know how many
24 cameras was actually positioned there at the
25 entrance building that would actually catch --

1 Q. I thought you were saying that the camera
2 coming from the conference room building --

3 A. Uh-huh.

4 Q. -- could see people coming out of the
5 entrance building?

6 A. Yes.

7 Q. Okay. And is there any point where -- is
8 there anything that would obscure the view
9 between the camera and the entrance building
10 where at some point Ms. Fletcher would have been
11 out of sight or anything like that?

12 A. No.

13 Q. And did y'all -- if y'all had seen a point
14 where Ms. Fletcher had walked -- if there was a
15 point where Ms. Fletcher had walked -- where
16 Ms. -- from the point that Ms. Fletcher had
17 walked out of the building, went through the kind
18 of gate area and then got on the sidewalk, if at
19 any point during that y'all had seen Ms.
20 Fletcher appear to reach down into her pants and
21 pull an item out, if she was rooting around in
22 her pants or something like that, y'all would
23 have put that video -- that portion of the video
24 into this investigation as well, correct?

25 A. Correct.

1 Q. But you didn't do that, because y'all didn't
2 see anything like that, did you? Y'all didn't
3 see that at any point, did you?

4 A. Coming out the building?

5 Q. Yes.

6 A. Is that what you're saying?

7 Q. Yeah. From the moment she went out the door
8 of the entrance building into that gate area you
9 were talking about, throughout the time that
10 she -- to the point where, you know, we have the
11 photos that are in Exhibit 9, anytime during that
12 time y'all didn't see her appear to be rooting
13 around in her pants or anything like that, did
14 you?

15 A. No.

16 Q. And so if you'll flip over to the Adani
17 scanner images that -- one of the better ones
18 maybe where it's kind of a little triangle light.
19 You circled something. I think you circled it on
20 one of those pages?

21 A. Yes.

22 Q. And just to make sure I understand, is that
23 what you're talking about right there?

24 A. Yes.

25 MR. GILLHAM: John -- or Jim, do you

1 mind if I circle just right around --

2 MR. ROBERTSON: Why don't you let
3 her do it. That way we can --

4 Q. Will you circle around that for me, and
5 then -- Page 0182 is the bates number down at the
6 bottom. All right. Now, that is a triangular
7 object, correct; is that what it looks like?

8 Well, I mean, the way it looks kind of flat looks
9 kind of triangular?

10 A. It looks round to me.

11 Q. Round?

12 A. Yes.

13 Q. But in any event, it doesn't look like a bank
14 card, does it?

15 A. No.

16 Q. And one thing that's of interest to me, is
17 that on those Adani scanner images, there is no
18 point where we see something that does look like
19 a bank card; is that correct?

20 A. I would have to look at the color ones to
21 determine that.

22 Q. And in fairness, on the day that Ms. Fletcher
23 came through, there was -- I can't remember which
24 sergeant was on duty -- but there was somebody on
25 duty at the Adani scanner?

1 A. Yes.

2 Q. And they did not see anything that looked
3 like a credit card, did they?

4 MR. ROBERTSON: Object to form,
5 speculation.

6 A. Never questioned that person about a credit
7 card.

8 Q. Well, I mean, if they saw something that
9 looked like a credit card, they're supposed to
10 tell you about it, right?

11 A. Yes.

12 Q. Because that would be something that's not
13 supposed to come in, right?

14 A. Yes.

15 Q. And so if they had seen something like that,
16 you would expect them to tell you, tell Captain
17 Kelly about it, correct?

18 A. Yes.

19 Q. And given that they're already identifying
20 some potential contraband there on Page 182,
21 there wouldn't really be any reason for them to
22 not tell you guys if they saw a credit card or a
23 bank card, right?

24 A. Correct.

25 Q. Now, when you came in, you had not been on

1 the facility at the point that you received the
2 call from Captain Kelly, correct?

3 A. Correct.

4 Q. So you had to come in through that entrance
5 building; is that right?

6 A. Correct.

7 Q. And when you came in through that entrance
8 building, I think you did look at the Adani
9 scanner images; is that right?

10 A. Yes.

11 Q. And you did not see anything that looked like
12 a credit card on there, did you?

13 A. At that point I wasn't looking for a credit
14 card.

15 Q. Okay. But the images you were looking at
16 would have been those images, but maybe color and
17 better, a little more sharper, or something like
18 that?

19 A. Correct. When I got the call, they normally
20 tell you exactly what area it's in and what it
21 looks like.

22 Q. Okay. And so now, a credit -- a bank card or
23 a credit card, something like that, would that be
24 something that would be picked up by the Adani
25 scanner?

1 A. It should pick it up.

2 Q. If it's in somebody's pant's pocket, either
3 their kind of hip pockets in back or their front
4 pockets, those -- the pictures of her body here
5 that we're seeing cover, looks like from maybe
6 right next to her shoulders down to right above
7 her knees, correct?

8 A. Yes.

9 Q. And so if we had hip pockets or pants pockets
10 with a bank card in it, that would be about
11 midway in that picture, right?

12 A. No, not midway. When you say midway, are you
13 talking about up in the -- this would be the
14 pocket area here.

15 Q. Okay. So the pocket area here would be --
16 there's -- and I was going to ask you about this.
17 There's a little square area with dots. What is
18 that?

19 A. Well, it's more just pinpointing some things
20 to draw your attention.

21 Q. Okay. And so what you're saying, is that the
22 pants pockets -- and I've never seen one of these
23 before, so I wouldn't -- but the pants pockets,
24 the top of them would be about where that square
25 dotted area is?

1 A. Yes.

2 Q. And so if there were a credit card, it should
3 be picked up somewhere in that same vicinity
4 that -- you know, about the same level of her
5 body is as where the white rounded thing that
6 you're saying is there, it's about that same
7 area, right?

8 MR. ROBERTSON: Object to form. I
9 didn't follow you.

10 A. Ask that question again.

11 Q. If there was something in her -- I mean, is
12 this what you would have -- is this the image
13 that you would have been looking at on the Adani
14 screen?

15 A. Yes. This is a zipper here.

16 Q. Okay. And so -- and when you say the zipper,
17 there's a line --

18 A. Yes.

19 Q. -- that goes about from her navel straight
20 down to right next to the rounded white object
21 you circled?

22 A. Yes.

23 Q. Okay. And it's a dark line. Okay. So
24 anyway, when you were looking at the Adani screen
25 to look at this white object that you circled,

1 would you have been seeing practically the same
2 size of her body as this?

3 A. Yes. It shows her head all the way down to
4 her feet.

5 Q. And so when you were looking at the objects,
6 if you saw a rectangular object the size of her
7 credit card, and if it was -- I mean, if it was
8 in her pockets, it should appear somewhere in
9 here, right, if it was to be seen on the screen?

10 A. Yes. If I had been actually looking for
11 that.

12 Q. Do the -- and I don't -- well, you don't see
13 it now, do you?

14 A. No, I don't see -- no, I don't see it on this
15 black and white.

16 Q. Okay. One thing is I'm not familiar with
17 your uniforms, as you know, by correcting me
18 about where the pockets are. Do the uniforms
19 have a shirt pocket or anything like that?

20 A. Yes.

21 Q. Okay. And so if she had a bank card in her
22 shirt pocket, where is the shirt pocket; where
23 would that be? Is that about right --

24 A. It's going to be up a little higher.

25 Q. Like here you think?

1 A. Well, yeah, probably up in that area.

2 Q. Can you draw where the shirt pocket would be,
3 if you don't mind? I tell you what, it might
4 also be good for you to draw where the pants
5 pockets would be if you could.

6 A. The black and white is a little harder to
7 tell. This would be the breast area up here.
8 I'm just going to say it's probably going to be a
9 little bit higher here, because this is the
10 breast area here, so I would say up in here
11 somewhere.

12 Q. Okay. And you drew a little box toward the
13 top of Page 182 there, just for future reference.
14 You don't have to draw the pants. I think I
15 located them when I said that the top was near
16 that little dotted box, so we're good there.

17 All right. Now, and the Adani scanner -- I
18 mean, that credit card should have shown up on
19 the Adani scanner if it was anywhere on her body;
20 is that right?

21 A. It should have.

22 Q. And so if she was carrying a credit card, and
23 we don't see a credit card anywhere on these
24 Adani body scan images, then it looks like the
25 Adani scanner may have missed it?

1 A. I wouldn't say that, because --

2 Q. What would you say? How else would it get
3 through there?

4 A. I would say based on that's what she said
5 what it was. I don't know whether that's where
6 it was or not, because if she brought something
7 in, it might not have been in her pocket, but
8 that's what she said. She said that's where the
9 card was in her pocket. I don't know whether it
10 was or not.

11 Q. So where else would it be?

12 A. They bring in food items, they bring in other
13 things. I don't know whether she had it in her
14 bag. She had some other things with her when she
15 came to work. I don't know whether it was food
16 items, but I do remember something sitting on
17 the -- in the conference room sitting on the
18 table, so it wasn't -- I don't know whether it
19 was actually in her back pocket or where. That's
20 what she told me.

21 Q. What do they get to bring in in terms of like
22 a bag?

23 A. They can bring in a little food container
24 that they can have sandwiches in. They can bring
25 in plastic bags. So they can bring in other --

1 Q. Okay. And that, does that just go through
2 without being inspected? Surely not. Surely it
3 gets --

4 A. Yes. It's supposed to be inspected, yes,
5 sir.

6 Q. How do they inspect it? Is it like a visual
7 and they go through it; does it run through an
8 x-ray machine? What happens there?

9 A. It goes through an x-ray machine, and then
10 they inspect also, so you have staff there going
11 through the things that they bring in, sandwiches
12 as well.

13 Q. So if it came through in some sort of box or
14 container or bag, or whatever it was that she was
15 carrying that day, an inspection should have been
16 done by the guard?

17 A. Yes.

18 Q. But no credit card was found in that material
19 or we would know about it, right?

20 A. Not that I'm aware of.

21 Q. Well, I mean, if a credit card or a bank card
22 was found in that material, then it would be
23 reported and put into this investigation,
24 correct?

25 A. Yes. It's supposed to be reported.

1 Q. And if it was seen on some sort of x-ray
2 machine, same thing, right, should have been
3 reported?

4 A. Yes.

5 Q. But it was not?

6 A. No.

7 Q. Okay. So anyway, have there been instances
8 where -- Ms. Fletcher was telling me about
9 apparently there was a day where everybody came
10 through was shown to have something in their
11 right left breast kind of pocket area, and it was
12 just an error that was occurring with everybody
13 that came through on that day. Do you recall
14 that happening?

15 A. No.

16 Q. When you were questioned by Mr. Robertson
17 about how often it makes incorrect kind of
18 findings, you know, has a false image that shows
19 something and there's not something there, and
20 you said it wasn't once a day, and then he got to
21 once a week and you kind of hesitated. Is it
22 close enough to once a week that you kind of had
23 to think about your answer there?

24 A. No. When he asked me the question when
25 you're talking about a false, it all depends on

1 the operator. The operator might see something
2 that is questionable to her or him, so it's not
3 really a false positive. It's more of something
4 that's questionable.

5 Q. And so that you want to look?

6 A. Correct.

7 Q. And how often do you have situations where
8 the operator sees something, makes them like want
9 to look and make sure that there's not some
10 contraband there, and it turns out that there's
11 nothing where they believe that image -- you
12 know, that it was a little bit suspect, how often
13 does that happen? Is that once a week?

14 A. I would say once a week.

15 Q. Do you think it happens as much as once a
16 day?

17 A. It might happen once a day.

18 Q. Thank you.

19 A. It's based on the operator.

20 Q. That's fair enough. So anyway, I want to go
21 to the issue of -- I assume you have a cell
22 phone, right?

23 A. Yes.

24 Q. And do you have a lot of people's phone
25 numbers and contact information in that cell

1 phone, like a contacts list?

2 A. My State cell phone, the people that I -- I
3 bring in my State cell phone, and that's for
4 State employees.

5 Q. Right. So you have like a list of employees
6 and things like that in your State cell phone?

7 A. Not my employees. My supervisors.

8 Q. Oh, your supervisors?

9 A. Yes.

10 Q. What about your personal cell phone? And I
11 don't want to know what's in it specifically, but
12 in your personal cell phone, do you have like a
13 lot of contacts of people and things like that?

14 A. Yes.

15 Q. And can you tell me with certainty the
16 identity of every single person that is in your
17 contacts in your cell phone?

18 A. If I went through there, yeah, I could tell
19 you who they are.

20 Q. Without looking at it, though, you wouldn't
21 remember every single one, correct?

22 A. No.

23 Q. I mean, you would know some. Like you'd know
24 for sure that you got your sister or, you know,
25 people like that, close relatives, your best

1 friend, but then there would be other people that
2 might or might not be in there that you wouldn't
3 know, right?

4 A. Relatives, too, yes.

5 Q. And of course if -- you're familiar with if
6 somebody calls you, you'll have like -- if you
7 call them or somebody calls you, their number
8 will come up in like a list of calls you've made,
9 right?

10 A. Yes.

11 Q. And if you choose to, you can then put that
12 into your contacts; like you can hit the little
13 thing that puts it into your contacts, and you
14 can type in that person's name, right?

15 A. Yes.

16 Q. So there could be situations where, if for
17 some reason my client had occasion to call

18 Captain Kelly, that she could store that
19 information in her phone as a contact, right?

20 A. Yes.

21 Q. And Captain Kelly, if she chose to, would
22 also be able to put it into her phone, but she
23 doesn't have to, right?

24 A. No.

25 Q. And so just because Ms. Fletcher has Captain

1 Kelly's contact information in her phone and has
2 called her before, doesn't mean that Captain
3 Kelly would have put it into her contacts and
4 kept that information; is that fair?

5 A. Yes.

6 Q. In addition, are you familiar with being able
7 to -- like you can take your cell phone and share
8 a contact with a person?

9 A. No. I don't know how to do that.

10 Q. Okay. Do you know that it can be done?

11 A. Yeah, I know you can do it.

12 Q. And so if somebody shared Kelly's contact
13 information with Corporal Fletcher, Captain Kelly
14 might not even know about it, right?

15 A. Correct.

16 Q. I want you to think back to 2019. Can you
17 tell me every time that you had like a family
18 meeting or you may have met up with your family,
19 your friends, your relatives, went to Christmas
20 parties, things like that?

21 A. No.

22 Q. And you wouldn't expect that most people
23 could do that, right?

24 A. Well, some can.

25 Q. Well, in 2020 it would be easier, because you

1 hardly get to see anybody. But in 2019, before
2 COVID, it would be -- a lot of people wouldn't be
3 able to tell you every single time they went to a
4 little potluck or a little gathering or that sort
5 of thing, right?

6 A. Correct.

7 Q. And so Captain Kelly has been with ADC for
8 several years -- or had been with ADC for several
9 years, correct?

10 A. Yes.

11 Q. Corporal Fletcher had been with ADC for
12 several years, correct?

13 A. Yes.

14 Q. And so at some point they crossed over and
15 went to the same potluck or party or Tupperware
16 party or something like that, it wouldn't be too
17 shocking if one remembered that and the other
18 didn't, would it?

19 MR. ROBERTSON: Object to form,
20 speculation.

21 A. Repeat the question.

22 Q. Well, I mean, if you've got a situation
23 where --

24 MR. ROBERTSON: My apologies. Can
25 we take a break?

1 MR. GILLHAM: Yeah.

2 (A break was taken.)

3 (Back on the record.)

4 Q. (By Mr. Gillham) Back on the record. So
5 anyway, you know what we were talking about is
6 kind of, you know, little potlucks, gatherings,
7 parties, things like that. If you -- it wouldn't
8 be too surprising to you if a person is asked to
9 think back about a year or two about all the
10 potlucks and gatherings and things like that that
11 they've been to, but they might not remember all
12 of them, correct?

13 A. Correct.

14 Q. Wouldn't be too surprising if they did not
15 remember those gatherings and how they came about
16 in perfect detail; is that correct?

17 A. Correct.

18 Q. It wouldn't be surprising if they did not
19 recall everybody that was there at that
20 gathering; is that fair?

21 A. Yes.

22 Q. It wouldn't be surprising if they could not
23 recall correctly everything that happened at
24 those gatherings; is that fair?

25 A. Yes.

1 Q. And so one thing about it, is that if we're
2 looking back at this gathering, the testimony --
3 there was some statements about a gathering or a
4 potluck and chopping vegetables, things like
5 that. First of all, Ms. Fletcher is the one who
6 told you about that, right?

7 A. I think so.

8 Q. And you didn't find that she was being
9 deceptive about that, correct?

10 A. Rephrase that.

11 Q. You didn't find that she was being -- I mean,
12 she's the one who told you about it, right?

13 A. Yeah. She's the one that told me about it
14 after I asked about it.

15 Q. Right. But that's what happens in
16 interviews --

17 A. Uh-huh.

18 Q. -- is the interviewers ask questions, and
19 the people that are being asked questions answer
20 them, right?

21 A. Correct.

22 Q. And I mean, it's not too shocking if Fletcher
23 and Kelly have different memories about how
24 exactly a potluck went, is it?

25 A. No.

1 Q. And there could be an innocent explanation
2 for why Fletcher says that she and Captain Kelly
3 have their numbers, and Captain Kelly says, no, I
4 don't have that number; it's just that one kept
5 the information and one didn't; is that possible?

6 A. Yes.

7 Q. And you can read and sign your deposition.
8 We don't -- I don't care if you do. Jim probably
9 doesn't either --

10 MR. ROBERTSON: I do not.

11 Q. -- but you have the right to do it if you
12 want. It's basically where you go through and
13 make sure that it's typed up correctly, you know,
14 and that your answers are reflected as --

15 MR. ROBERTSON: I've got a couple
16 more questions if you --

17 MR. GILLHAM: Oh, yeah.

18 Q. And basically I'm done, but he's going to
19 have a few follow-up.

20 FURTHER EXAMINATION

21 BY MR. ROBERTSON:

22 Q. I forgot to ask you this, and I meant to
23 earlier. Did Captain Kelly appeal her
24 termination decision?

25 A. Captains don't have any appeal rights.

1 Q. So she could not?

2 A. She could not, but she did file an EEOC.

3 Q. Oh, she did?

4 A. Yes.

5 Q. And what was the result of that?

6 A. I don't know what the result of that was.

7 All I know is that she did file one.

8 Q. Okay. Part of Ms. Fletcher's testimony the
9 other day, she described how she basically had
10 some sergeant responsibilities, and that she had
11 taken the sergeant's exam sometime relatively
12 close. In fact, she was waiting on results I
13 guess as to whether she was going to be promoted
14 or not, so the exam had to have occurred sometime
15 relatively close to the events that happened on
16 April 30, 2019. Do you remember any of that?

17 A. I do remember her applying. I don't remember
18 the exact dates, though, but I do remember she
19 did apply.

20 Q. And I'll represent to you, that when we were
21 discussing that two days ago, I asked Ms.
22 Fletcher how Captain Kelly gave her the
23 information about the sergeant's exam, and she
24 testified under oath that it was texted to her.
25 Assume for me that that's true testimony, if that

1 is the case, that Kelly texted the sergeant's
2 exam information to Ms. Fletcher, would that
3 indicate to you that Ms. Kelly was lying when she
4 told you that she did not have communication via
5 text with Ms. Fletcher?

6 MR. GILLHAM: Object to form.

7 A. Yes.

8 Q. I have nothing further. Thank you for your
9 time.

10 FURTHER EXAMINATION

11 BY MR. GILLHAM:

12 Q. Do you know when that sergeant's exam would
13 have been, what year, anything like that?

14 A. Would have been the same year that this
15 incident happened.

16 Q. All right. Just because you have a phone
17 call or text with somebody doesn't mean that you
18 keep their information, does it?

19 A. Ask that question again.

20 Q. Well, just because you -- you know, I have
21 phone calls with people all the time that aren't
22 in my contacts list and don't make it into my
23 contacts list, but just because I have a phone
24 call with them or a text with them doesn't mean
25 that I kept that information in my phone?

1 A. Correct.

2 Q. All right. I don't have any other questions.

3 MR. ROBERTSON: Nothing further.

4 Hand me that handwritten Exhibit 9 picture back.

5 It's a copy of that one, but it's mine.

6 MADAM COURT REPORTER: Is this just
7 extra?

8 MR. BURNS: We didn't mark the
9 SEAGAP --

10 MR. GILLHAM: Do you want to make
11 that an exhibit?

12 MR. ROBERTSON: If you want to.

13 MR. GILLHAM: Let's go ahead and
14 make that an exhibit.

15 MADAM COURT REPORTER: Then that's
16 Exhibit 10.

17 (Deposition Exhibit No. 10 was
18 marked.)

19 (Deposition proceedings
20 concluded at 3:09 p.m.)

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1 CERTIFICATE

2 STATE OF ARKANSAS)
3) ss:
4 COUNTY OF PULASKI)

5 I, KELLY HILL, Certified Court Reporter, a
6 notary public in and for the aforesaid county and
7 state, do hereby certify that the witness,
8 AUNDREA CULCLAGER, was duly sworn by me prior to
9 the taking of testimony as to the truth of the
10 matters attested to and contained therein; that
11 the testimony of said witness was taken by me
12 stenographically, and was thereafter reduced to
13 typewritten form by me or under my direction and
14 supervision; that the foregoing transcript is a
15 true and accurate record of the testimony given
16 to the best of my understanding and ability.

17 I FURTHER CERTIFY that I am neither counsel
18 for, related to, nor employed by any of the
19 parties to the action in which this proceeding
20 was taken; and, further, that I am not a relative
21 or employee of any attorney or counsel employed
22 by the parties hereto, nor financially
23 interested, or otherwise, in the outcome of this
24 action; and that I have no contract with the
25 parties, attorneys, or persons with an interest
in the action that affects or has a substantial
tendency to affect impartiality, that requires me
to relinquish control of an original deposition
transcript or copies of the transcript before it
is certified and delivered to the custodial
attorney, or that requires me to provide any
service not made available to all parties to the
action.

21 Kelly D. Hill
22 Certified Court Reporter
23 State of Arkansas
24 Certification #515
25